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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,502	11/30/2001	Eric P. Plourde	769-303	6555
29540	7590	05/25/2004	EXAMINER	
PITNEY HARDIN LLP 685 THIRD AVENUE NEW YORK, NY 10017-4024			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 05/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,502

Applicant(s)

PLOURDE ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,217,215 to Tomic. Tomic (Fig. 7) discloses a closure mechanism (570) comprising a first inter-lockable profile (571) having a longitudinally extending web portion and having a longitudinally extending locking portion, the locking portion of the first profile having a plurality of continuous shaped ribs (574, 575, 576) extending there-along, the ribs having a central tip and barbs extending laterally at each side of the tip with the barbs providing a first interlocking contact area. A second inter-lockable profile (572) having a longitudinally extending web portion and having a longitudinally extending locking portion, the locking portion of the second profile having a plurality of continuous shaped ribs (578, 579) extending there-along with at least one of the ribs having a central tip and a pair of barbs extending laterally at each side of the tip and the ribs with a central tip of the second profile bordered by at least two of the ribs (577, 580) shaped with a distal end with one and only one barb extending laterally from the distal end and extending laterally to at least one of the ribs having a central tip with the barbs providing a second inter-locking contact area. A first plurality of continuous grooves (U-shaped or bowl-shaped recess areas) there-between the ribs of the second profile, the first plurality of continuous grooves receptive in at least one inter-locking relationship to the locking portion of the first

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profile, whereby ribs adjacent the ribs having a central tip and a pair of barbs flex outwardly in the interlocking relationship. Tomic fails to disclose that the ribs are free of flexing inwardly into any of the plurality of grooves or that the second inter-lockable profile has one and only one of the ribs having a central tip and a pair of barbs extending laterally at each side of the tip. Instead, Tomic includes two such ribs (578, 579). However, in column 8, lines 16-19, Tomic disclose that the first and second inter-lockable profiles can be constructed to have any number of ribs. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the closure mechanism of Tomic to reduce the number of ribs having a central tip and a pair of barbs extending laterally thereof, from two to one for the purpose of reducing material and overall cost of manufacture while maintaining a balanced tactile feel.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment on February 17, 2004 have been fully considered but they are not persuasive. Applicant asserts that applicant's claimed invention is patentably distinct over Tomic because structural elements (44, 52) of applicant's invention do not undergo inward movement relative to an interlocking operation. In comparison, Tomic's corresponding structural elements (577, 580) will be subject to inward movement relative to interlock because of the arrangement as seen in Fig. 7. Here, the Examiner believes applicant has not taken into consideration the obvious modification of Tomic as interpreted by the Examiner. In other words, applicant's remarks on page 4, second paragraph is based on two ribs (578, 579),

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where the ribs (577, 578, 579 and 580) of Tomic cannot flex without flexing inward as described by applicant.

As stated in this Action under the obvious-type rejection, the Examiner is taken the position that one of the two ribs (578, 579) can be omitted as supported in column 8, lines 16-19 of Tomic. Thus, it can be envisaged when viewing Fig. 7 that male ribs (577 and 580) of the second inter-lockable profile 572 are adjacent to just one rib (578 or 579) instead of both ribs and during inter-locking operation, male rib (580) can move upwardly and male rib (577) can move downwardly, thereby flexing outwardly without flexing inwardly into the grooves as claimed.

This obvious modification of Tomic as interpreted by the Examiner not only provides the same structural arrangement of components as relied upon by applicant (Figs. 2-5), but can also perform the same function as applicant's claimed invention.

For the foregoing reasons stated above, the Examiner feels that claims 1-4 remain unpatentable over Tomic as an obvious-type rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER